

PATENT COOPERATION TREATY

TRANSLATION

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing (day/month/year) **See form PCT/ISA/210**

Applicant's or agent's file reference
RP/FI204004

FOR FURTHER ACTION

See paragraph 2 below

International application No.
PCT/EP2004/011854

International filing date (day/month/year)
20.10.2004

Priority date (day/month/year)
05.02.2004

International Patent Classification (IPC) or both national classification and IPC
A61K7/13

Applicant
WELLA AKTIENGESELLSCHAFT

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☒ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/011854

Box No. I	Basis of this opinion
1.	<p>With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.</p> <p><input type="checkbox"/> This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).</p>
2.	<p>With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:</p> <p>a. type of material</p> <p><input type="checkbox"/> a sequence listing</p> <p><input type="checkbox"/> table(s) related to the sequence listing</p> <p>b. format of material</p> <p><input type="checkbox"/> in written format</p> <p><input type="checkbox"/> in computer readable form</p> <p>c. time of filing/furnishing</p> <p><input type="checkbox"/> contained in the international application as filed.</p> <p><input type="checkbox"/> filed together with the international application in computer readable form.</p> <p><input type="checkbox"/> furnished subsequently to this Authority for the purposes of search.</p>
3.	<p><input type="checkbox"/> In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.</p>
4.	<p>Additional comments:</p>

WRITTEN OPINION OF THE
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International application No.
PCT/EP2004/011854

Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	14	YES
	Claims	1-13	NO
Inventive step (IS)	Claims		YES
	Claims	1-14	NO
Industrial applicability (IA)	Claims	1-14	YES
	Claims		NO
2. Citations and explanations:			
<p>1 The present opinion makes reference to the following documents:</p> <p>D1: EP 1 293 192 A (KPSS KAO) 19 March 2003 (2003-03-19)</p> <p>D2: DE 43 31 136 C (GOLDWELL AG) 25 August 1994 (1994-08-25)</p> <p>D3: DE 198 25 133 C (GOLDWELL GMBH) 17 February 2000 (2000-02-17)</p> <p>D4: DE 195 44 655 A (GOLDWELL GMBH) 5 June 1997 (1997-06-05)</p> <p>D5: US 2003/074747 A1 (MILLEQUANT JM ET AL) 24 April 2003 (2003-04-24)</p>			
<p>2 INDEPENDENT CLAIM 1</p> <p>The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 1 is not novel within the meaning of PCT Article 33(2).</p>			
<p>2.1 Document D1 discloses a base for hair colorants into which a developer-coupler combination is incorporated (page 3, paragraph 12 and 13): a) 8% stearyl alcohol, b) 4.5% coconut fatty acid</p>			

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Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

monoethanolamide, c) 4% coconut fatty alcohol
polyglycol ether.

2.2 Document D2 discloses a base for hair colorants into which mixtures of developer and coupler substances are introduced (page 3, line 30-52): a) 12% cetylstearyl alcohol, b) 2.3% coconut monoethanolamide and 2.3% stearic acid monoethanolamide, c) 5% oleyl alcohol ethoxylate (5 EO) and 0.6% propylene glycol monostearate. The base is free from quaternary compounds.

2.3 Document D3 discloses a carrier mass for hair colour, mixed with oxidation dyes (column 3, lines 5-35): a) 11% cetylstearyl alcohol, b) 2.5% stearic acid monoethanolamide, 2.5% coconut fatty acid monoethanolamide, c) 5% oleth-5. The carrier mass is free from quaternary compounds.

2.4 Document D4 discloses a carrier material for hair colour (page 4, lines 54-67, carrier II): a) 11% cetylstearyl alcohol, b) 2% stearic acid monoethanolamide, 2% coconut fatty acid monoethanolamide), c) 5% oleth-5. The carrier material is free from quaternary compounds.

2.5 Document D5 (page 18-19, examples 1-3) discloses hair colour carrier masses comprising oxidation dye precursors with a) oleyl alcohol, b) monoethanolamide-OE-2 or rapeseed oil acid amide-OE-2, c) polyglycerol oleyl alcohol or lauryl alcohol, or decyl alcohol-OE-3 or -OE-5.

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Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

The ratios of a:b and a:c are likewise satisfied in the examples of D5.

3 INDEPENDENT CLAIM 12

The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 12 refers directly to the subject matter of claim 1, which cannot be regarded as novel for the reasons specified under point 2.

4 INDEPENDENT CLAIM 14

Although documents D1-D5 all have technical features a, b and c, and the required ratios of a:b and a:c are also observed, there is no disclosure in D1-D5 for producing a pearlescent effect in the disclosed colour carrier masses.

The subject matter of claim 14 is thus formally regarded as novel.

5 DEPENDENT CLAIMS 2-11, 13

Claims 2-11, 13 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT requirements for novelty and inventive step.

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International application No.

PCT/EP2004/011854

Box No. VI

Certain documents cited

1. Certain published documents (Rule 43bis.1 and 70.10)

Application No.
Patent No.

Publication date
(day/month/year)

Filing date
(day/month/year)

Priority date (valid claim)
(day/month/year)

See supplemental sheet

2. Non-written disclosures (Rule 43bis.1 and 70.9)

Kind of non-written disclosure

Date of non-written disclosure
(day/month/year)

Date of written disclosure
referring to non-written disclosure
(day/month/year)

See form 210

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/011854

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

As already remarked under point V.4 regarding independent claim 14, there is no disclosure in D1-D5 for producing a pearlescent effect in the disclosed colour carrier masses although these have all of the technical features a, b and c, and the required amounts and ratios of a:b and a:c are also observed.

Since independent claims 1, 12 and 14 contain no further features, they do not meet the requirement of PCT Article 6 in conjunction with PCT Rule 6.3(b) that each independent claim must include all of the technical features essential to the definition of the invention.

WRITTEN OPINION OF THE
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International application No.

PCT/EP2004/011854

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: Box VI

D6 (claims 1, 2, 17; examples 1, 2, 5) discloses hair dyeing carrier masses with a+b+c as claimed with pearly lustre.

D7 (examples 1 and 2, pages 38-39) discloses hair colorants with a) oleyl alcohol, b) alkyl monoethanolamide or rapeseed oil acid amides, c) glycerol ether or POE ether.

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a. type of material

☐

a sequence listing

☐

table(s) related to the sequence listing

b. format of material

☐

in written format

☐

in computer readable form

c. time of filing/furnishing

☐

contained in the international application as filed.

☐

filed together with the international application in computer readable form.

☐

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Box No. VI Certain documents cited

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Patent No.

Publication date
(day/month/year)

Filing date
(day/month/year)

Priority date (valid claim)
(day/month/year)

See supplemental sheet

2. Non-written disclosures (Rule 43bis.1 and 70.9)

Kind of non-written disclosure

Date of non-written disclosure
(day/month/year)

Date of written disclosure
referring to non-written disclosure
(day/month/year)

See form 210

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